

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING – DIVISION OF WATER RIGHTS
SEPTEMBER 21, 2006**

ITEM: 6

SUBJECT:

CONSIDERATION OF RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING THE STATE WATER RESOURCES CONTROL BOARD'S WATER RIGHT AND WATER QUALITY CERTIFICATION FEE SCHEDULES IN TITLE 23, DIVISION 3, OF THE CALIFORNIA CODE OF REGULATIONS

DISCUSSION:

In Fiscal Year (FY) 2006-07, the Budget Act requires the State's water right program administered by the State Water Resources Control Board (State Water Board), including the water right fee collection efforts of the State Board of Equalization and support for the California Environmental Protection Agency for the water right program, to be supported by fee revenues amounting to \$10.472 million.¹ The Water Code requires the State Water Board to adopt emergency regulations revising and establishing fees to be deposited in the Water Rights Fund in the State Treasury. The emergency regulations may include provisions concerning the administration and collection of the fees.

The State Water Board must annually set a fee schedule that will generate revenues to the Water Rights Fund consistent with the Budget Act for the fiscal year. The State Water Board may adjust the fees set each year to account for over- or under-collections in previous years. Fees may be assessed for actions specified in the Water Code and may be expended to support regulatory activities specified in the Water Code.

Assuming a non-collection rate of five percent and accounting for amounts in the Water Rights Fund as a result of previous year collections and expenditures, the Division of Water Rights determined that for the purposes of calculating the fees that the total amount to be billed in annual fees should be \$9.973 million in order to collect the revenues required by the Budget Act.

The proposed regulations would set fees to collect the revenue necessary to fund the majority of the water right program and to support the water quality certification program administered by the Division of Water Rights. If the State Water Board adopts the proposed fee schedule, the general result will be to increase:

- (1) annual fees for applications, permits, and licenses that allow diversions of more than 10 acre-feet per year;

¹ This amount has been adjusted to account for anticipated amendments to the amounts in the Budget Act that are delegated to the Department of Finance.

- (2) annual fees for projects under review for Clean Water Act (CWA) section 401 certification for Federal Energy Regulatory Commission (FERC) licensing and for projects which have been issued FERC licenses pursuant to CWA section 401 certification; and
- (3) the upper limit on filing fees for applications, petitions, and water transfers.

The revised schedule will decrease filing and annual fees for most temporary permits filed under Water Code section 1425. Fees for roughly half of the current fee payers will remain unchanged from last fiscal year. The water right and water quality certification fee regulations and schedules will be contained in division 3 of title 23 of the California Code of Regulations.

POLICY:

Should the State Water Board adopt the proposed resolution?

FISCAL IMPACT:

The Budget Act for FY 2006-2007 requires the water right program to be supported by fee revenues amounting to \$10.472 million. Accounting for the condition of the Water Rights Fund as a result of collections and expenditures in previous years, the proposed fee schedule is anticipated to result in collections of \$10.126 million, provided that certain assumptions hold true.

RWQCB IMPACT:

None.

STAFF RECOMMENDATION:

Staff recommends that the State Water Board adopt the proposed resolution.